

DUNBARTON ZONING BOARD OF ADJUSTMENT

Monday, June 13, 2022

7:00 p.m. – Town Office

MINUTES OF MEETING

Chair John Trottier called the meeting to order at 7:00 p.m.

Attendance: Chair John Trottier, Secretary Alison Vallieres, Dan Dal Pra, and Alternates Derrick Labranche and Matthew Delude

Derrick Labranche and Matthew Delude were appointed as Voting members in the absence of Jim Soucy and John Herlihy.

Approval of previous meeting minutes: **Dan Dal Pra made a motion to approve the minutes of the May 9, 2022 meeting as written; Alison Vallieres seconded the motion. John Trottier and Matthew Delude abstained as they were not present at that meeting; all others in favor.**

Continuation of Public Hearing – Application #2022-ZBA-001, Bryan Murphy, 13 Town Farm Lane, B3-02-03, in the Low-Density Residential District. Requests a Special Exception from Article 4, Section I. Table of Uses, C. Commercial, of the Dunbarton Zoning Ordinance to allow a propane fill station at his residence for the purpose of filling propane tanks for customers and for his own bed bug extermination business.

Mr. Murphy distributed pictures of the new driveway/access that he created. He explained the location of the new and existing driveways, the traffic flow being one-way clockwise, similar to a drive-through, making parking a non-issue. Board members reviewed the pictures which showed entering via the new driveway and leaving via the existing driveway. Mr. Murphy said he will be doing more work once he is sure of an approval as he wants to avoid people parking and walking around because it is not a store. He said it is a nice wide driveway and a lot of room, and the fire chief confirmed they could get in if an emergency. John Trottier noted that a letter was received from the fire chief and distributed to board members. He said the chief has looked at the site and expressed his concerns/points in the letter. Dan Dal Pra said the chief noted his concerns in the letter, that the tank be protected, and he got the impression that Jon Wiggan would like to be involved in the set up and inspection. He said the letter satisfies the concerns he had at the last meeting. Alison Vallieres said she agreed.

John Trottier said there is a note on page 3 of the minutes about the applicant getting the opinion of an appraiser or realtor about the impact of this proposed business on the value of abutting properties. Mr. Murphy said he has called several realtors and lenders, as well as done his own research. He said a 1,000-gallon tank is at the acceptable limit for properties within 300' and are very common in residential settings. Mr. Murphy noted that tanks of 1,000 gallons or less are not as limiting when it comes to FHA loans. He said he spoke with his credit union's mortgage expert who said they have done many FHA loans and large tanks have never been a detriment. Mr. Murphy said he is confident the neighbors will not be impacted. He said he will have an agreement with H R Clough, and the tank and pump will belong to them. If he is no longer using the tank and pump, they would go away. Mr. Murphy cited HUD 24 CFR, part 51, subpart C, about 1,000 gallon and less are exempt from the FHA rule.

The chair mentioned a list of points he offered for the last meeting and asked if those were addressed in his absence. Dan Dal Pra said the board members went through the chair's list at the last meeting. He said the safety issue and access were addressed. Alison Vallieres said they discussed a number of the points raised by Mr. Trottier. The chair said he had questions about fencing, the number of tanks, and the disposal of tanks at

the transfer station not to be a burden to taxpayers. Dan Dal Pra said the applicant said the disposal cost would be picked up by him. Bryan Murphy said he would have to pay to dispose of any tanks, and that would not be a burden to taxpayers. John Trottier said he did not see that reflected in the minutes. Matthew Delude said the request could be approved with conditions. Mr. Murphy said he would charge a disposal fee. Mr. Delude said a condition could be that the applicant would have to charge the customer to cover the disposal cost. The applicant asked what the concern is on this matter. Donna pointed out that the applicant did address covering the cost of disposal in the minutes of the last meeting, page 2, item #4. Mr. Murphy said there is no way to avoid the expense, he will get charged. Dan Dal Pra said dictating that the applicant has to charge customers is out of the Board's hands. Mrs. Murphy said they thought they would make it convenient for the customer by offering to take the tank to the transfer station. Mr. Murphy said they would charge for that, or the customer would have the option of taking their own tank.

The chair asked if there were any questions from the Board. Derrick Labranche asked how many tanks would be gathered before taking them to the transfer station. Mr. Murphy said he keeps a neat property and does not want a pile of rusty tanks sitting around for long. Dan Dal Pra noted that Mr. Murphy plans to put up a fence and that area would be inclusive of including any old tanks. That would limit the number of stored tanks. Mr. Murphy said there would be a concrete pad for the tank and pump, as well as an area for old and new tanks, all being locked behind a gate. John Trottier said having a fenced-in area and the number of tanks were some of his concerns. It was asked if he would have an exchange set-up, similar to Blue Rhino cages seen in other locations. Dan Dal Pra said the applicant would be selling retail, and it should be up to him as to what process he uses, whether it be exchange, swap, fill, etc.

John Trottier asked if Mr. Murphy had something in writing on the appraisal question. Mr. Murphy said no realtor would ever put that in writing. Matt Delude said an appraiser should be able to do it. Dan Dal Pra stated that a lot of people have large tanks in their yard, and those don't devalue properties. Mr. Delude said he looked up the cited HUD reference and the fact sheet checks out as reported by the applicant. Alison Vallieres said she was satisfied, noting that the fire department letter was what she had wanted.

The chair read through the applicant's responses, asking the members if they felt each point was met.

1. *No detriment to property values in the vicinity of the proposed development will result on account of the location or scale of buildings, structures, parking areas or other accessways; the emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or the unsightly outdoor storage of equipment, vehicles or other materials.* (Full text shown in minutes of May 9, 2022) Mr. Trottier said the applicant has described the proposed fencing and addressed unsightliness. He noted that the applicant will get into more details when going through the Planning Board process. Members agreed this point has been met.
2. *No hazard will be caused to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.* (Full text shown in minutes of May 9, 2022) John Trottier said the fire chief's letter addressed any potential for explosion and cited NFPA standards. Dan Dal Pra said the chief's letter addressed how the tank would be protected. Members agreed this point has been met.
3. *No creation of a traffic safety hazard or substantial traffic congestion in the vicinity of the proposed development.* (Full text shown in minutes of May 9, 2022) John Trottier said the additional access helps prevent traffic hazards. If there are multiple cars going to the site, they would be in a queue with the traffic circulation presented. He said he would think there would be prescribed hours of operation or customers would call for an appointment. Bryan Murphy said they are thinking it will probably be Thursday and Friday evenings and Saturday mornings. He said the main goal is to fill their own tanks, and if they can service others that would be a bonus. Members agreed this point has been met.
4. *No excessive demand on municipal services and facilities, including, but not limited to waste disposal, police and fire protection and schools.* (Full text shown in minutes of May 9, 2022) The cost of disposal would be passed on to the customers. Bryan Murphy said there will be no increase on demand as the tanks would be disposed of by the customers if he does not take them. Members agreed this point has been met.

5. *The proposed use will not result in the degradation of existing surface and groundwater water quality standards, nor will it have adverse effects on the natural functions of wetlands on the site which would result in the loss of significant habitat or flood control protection. (Full text shown in minutes of May 9, 2022)*
- Bryan Murphy said there is a drain system that accommodates run-off by the barn. Members agreed this point has been met.

Hearing no further discussion, the chair closed the public hearing and asked the Board how they would like to proceed. **Dan Dal Pra made a motion to grant the request of Bryan Murphy of 13 Town Farm Road in the low-density district of Dunbarton for a special exception to Article 4, Section I of the Table of Uses, C. Commercial, to allow a propane fill station to be constructed at said address for the purpose of filling propane tanks for customers, in addition to tanks for his own use, with the following conditions:**

1. **A security fence be constructed to house the main tank and any smaller customer tanks while being stored at the property.**
2. **Regular inspections by the Dunbarton fire chief will be required, including to allow for final certification.**
3. **Reliance on the information and testimony presented by the applicant in his application for a special exception and meeting minutes.**
4. **Approval of the Planning Board.**

Alison Vallieres seconded the motion. John Trottier abstained from voting as he was not present for the initial meeting and testimony. All others were in favor of the motion. **Special Exception granted by majority vote.**

Adjournment: Having no further business, **John Trottier made a motion to adjourn the meeting at 7:52 p.m. Dan Dal Pra seconded the motion. All were in favor.**

Respectfully submitted,

Donna White, Office Administrator